

INITIAL PROCEDURES CHM 2 through 13

2 PREPETITION ASSISTANCE:

- 2.1 General:** No action with respect to any investigation concerning a representation matter may be undertaken unless an appropriate petition has been docketed in the Regional Office.
- 2.2 Prefiling correspondence:** If no petition has been filed, all incoming and outgoing correspondence relating to representation matters including memoranda and notes concerning potential petitions, are retained in a file designated as “prepetition correspondence.” When a case is opened, related prepetition correspondence is removed from the prepetition file and placed in the open case file.
- 2.3 Prefiling assistance to a single party:** When approached by a person seeking guidance and information, the Authority agent (hereinafter agent) determines initially whether, based on the facts proffered, the matter is one covered by the Statute. If the matter appears to be covered by the representation provisions of the Statute, the individual is advised of the right to file a petition and the procedures for filing under the regulations.

If a labor organization seeks information about filing a petition for an election, the region discusses the basic petition-filing requirements. The agent may suggest that the labor organization may consider requesting a list of employees that the agency/activity believes are eligible for inclusion in an appropriate unit as it may be helpful to the labor organization in determining the size of the proposed unit and any required showing of interest. However, the region cannot request this information in the absence of a petition for the labor organization nor can the region force the agency or activity to provide such a list before a petition is filed. The region provides consistent advice if contacted by an agency or activity.

NOTE: There is no distinction in the type of prefiling assistance given when there is an incumbent labor organization.

The conversation or meeting is documented in a memorandum to the file. If the person requests additional assistance prior to the filing of the petition, see [CHM 2.4 through 2.6](#) for guidance.

If the matter is clearly not covered by the Statute, or is clearly untimely pursuant to 5 U.S.C. 7111, the agent informs the individual immediately.

However, the individual is informed that s/he has the right to file a petition.

- 2.4 Prefiling assistance pursuant to § 2422.13(a):** Section 2422.13(a) of the regulations encourages parties affected by the representation issues that **may** be raised in a petition to meet prior to the filing of a petition to discuss their interests and narrow the issues. If requested by **all** parties, a representative of the appropriate Regional Office **will** participate in these meetings. See also [CHM 25](#) - *meetings to narrow and resolve issues*.

When meeting with the parties for the purposes of discussing, defining, and narrowing their interests, agents avoid rendering advisory opinions and legal advice regarding the problem or issues raised. All responses to prepetition inquiries reflect clearly that the information being provided does not obligate the Regional Director, the General Counsel or the Authority to pursue any particular action or to order any particular result. The ultimate result will depend on various factual and legal considerations raised during the investigation/hearing.

- 2.5 Technical assistance as compared with advice:** General information regarding policy and procedure for processing specific petitions may be given to an individual or party seeking assistance under this section. This includes providing citations or copies of Authority cases that may be relevant and copies of subject matter outlines that appear in the *HOG*.

- 2.6 Assistance in preparation:** Assistance may be given to the petitioner to the extent of furnishing appropriate forms and reasonable technical assistance in completing forms, as well as providing the wording on the petition form itself. The petitioner is informed of the regulation's service requirements. See § 2422.4.